



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C., 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

JUN 01 2017

Mr. Reed Zars, Esq.  
Attorney at Law  
910 Kearney Street  
Laramie, WY 82070

Sent by Email: reedzars@gmail.com

**Re: Freedom of Information Act Request No. EPA-HQ-2017-006751**

Dear Mr. Zars:

This letter is in reference to your Freedom of Information Act ("FOIA") request received by the U.S. Environmental Protection Agency on May 1, 2017. You requested records related to the following statement in the consent agreement and final order entered into between EPA and H&S Performance, LLC on December 17, 2015: "EPA estimates that the emission impacts of the performance tuners is 71,669 short tons of NOx, 380 short tons of PM, and 4,231 short tons of non-methane hydrocarbons."

The Office of Civil Enforcement's Air Enforcement Division has identified two documents as being responsive to your request. These documents contain data, calculations, and assumptions regarding the estimates provided in the complaint. However, this information is being withheld in full under the attorney work product privilege of FOIA Exemption 5, 5 U.S.C. § 552(b)(5). The records are exempt from disclosure because they are materials prepared by an attorney or others in anticipation of litigation.

This letter concludes our response to your request. You may appeal this response by email at [hq.foia@epa.gov](mailto:hq.foia@epa.gov) or by mail to the National Freedom of Information Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue. If you are submitting your appeal by hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20004. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. Appeals received after 5:00 pm EST will be considered received the next business day. The Agency will not consider appeals received after the 90-calendar-day limit. The appeal letter should clearly identify the determination being appealed, including the assigned FOIA tracking number shown above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." Additionally, you may seek dispute resolution services from EPA's

FOIA Public Liaison at [hq.foia@epa.gov](mailto:hq.foia@epa.gov) or (202) 566-1667, or from the Office of Government Information Services ("OGIS"). You may contact OGIS in any of the following ways: by mail to the Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD, 20740-6001; email, [ogis@nara.gov](mailto:ogis@nara.gov); telephone, (301) 837-1996 or (877) 684-6448; or fax, (301) 837-0348.

If you have questions or concerns, please also feel free to contact Lauren Tozzi, the EPA attorney assigned to this matter. Ms. Tozzi can be reached at (202) 564-4904 or [Tozzi.Lauren@epa.gov](mailto:Tozzi.Lauren@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Phillip A. Brooks". The signature is fluid and cursive, with the first name "Phillip" being more prominent than the last name "Brooks".

Phillip A. Brooks, Director  
Air Enforcement Division  
Office of Civil Enforcement